

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT BALLINGER and U.S. POSTAL SERVICE,  
POST OFFICE, Reno, NV

*Docket No. 00-848; Submitted on the Record;  
Issued March 15, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant sustained an emotional condition while in the performance of his duties.

On June 21, 1999 appellant, then a 46-year-old letter carrier, filed a claim asserting that he sustained an injury on or before June 5, 1999 while in the performance of his duties. He described the nature of his injury as "stress -- hands -- chest." In a statement dated June 14, 1999, appellant described incidents occurring on April 23, May 28, June 4 and 5, 1999. The incidents involved various supervisors or managers, who monitored him, wrote him up for alleged safety violations and advised that he was going to lose his license.

An unsigned statement dated June 22, 1999, presumably from the employing establishment, noted a series of unsafe vehicle observations by several different supervisors. Appellant was counseled and issued a letter of warning. Although a decision was made to suspend appellant's license because of vehicle safety issues, a maintenance repair issue prevented the suspension.

The Office of Workers' Compensation Programs requested additional information from both appellant and the employing establishment. The employing establishment responded with statements, street observations, accident reports and two letters of warning.

In a decision dated August 20, 1999, the Office denied appellant's claim on the grounds that the claimed emotional condition was not considered to be within the performance of duty. The Office found that all of the implicated incidents involved actions taken by supervisors presumed to be acting within their administrative discretion as supervisors. The Office further found that no error or abuse on the part of the employer was established in any of the cited administrative actions.

On August 29, 1999 appellant requested reconsideration. He submitted a packet of documents, including an additional statement by him describing the intentions that he attributes

to various managers and the intimidating attitude of one manager in particular. A statement from the union president noted that the union had filed 10 grievances on appellant's behalf during the previous 10 months.

In a decision dated September 14, 1999, the Office reviewed the merits of appellant's claim and denied modification of its prior decision.

The Board finds that the evidence fails to establish that appellant sustained an emotional condition while in the performance of his duties.

The Federal Employees' Compensation Act<sup>1</sup> does not cover every injury or illness that is somehow related to one's employment. Generally, an employee's emotional reaction to an administrative or personnel matter is not covered under the Act. But error or abuse by the employing establishment in an administrative or personnel matter, or evidence that the employing establishment acted unreasonably in an administrative or personnel matter, may afford coverage.<sup>2</sup> Perceptions alone, however, are not sufficient to establish entitlement to compensation. To discharge his burden of proof, a claimant must establish a factual basis for his claim by supporting his allegations with probative and reliable evidence.<sup>3</sup>

Appellant attributes his condition to actions taken by various managers. As a general rule his emotional reaction under these circumstances is simply not covered by workers' compensation. The Board has held, for example, that an oral reprimand generally does not constitute a compensable factor of employment,<sup>4</sup> neither do disciplinary matters consisting of counseling sessions, discussions or letters of warning for conduct;<sup>5</sup> investigations;<sup>6</sup> determinations concerning promotions and the work environment;<sup>7</sup> discussions about an SF-171;<sup>8</sup> reassignment and subsequent denial of requests for transfer;<sup>9</sup> discussions about the employee's relationship with other supervisors;<sup>10</sup> or the monitoring of work by a supervisor.<sup>11</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Norman A. Harris*, 42 ECAB (1991).

<sup>3</sup> *Ruthie M. Evans*, 41 ECAB 416 (1990).

<sup>4</sup> *Joseph F. McHale*, 45 ECAB 669 (1994).

<sup>5</sup> *Barbara J. Nicholson*, 45 ECAB 803 (1994); *Barbara E. Hamm*, 45 ECAB 843 (1994).

<sup>6</sup> *Sandra F. Powell*, 45 ECAB 877 (1994).

<sup>7</sup> *Merriett J. Kauffman*, 45 ECAB 696 (1994).

<sup>8</sup> *Lorna R. Strong*, 45 ECAB 470 (1994).

<sup>9</sup> *James W. Griffin*, 45 ECAB 774 (1994).

<sup>10</sup> *Raul Campbell*, 45 ECAB 869 (1994).

<sup>11</sup> *Daryl R. Davis*, 45 ECAB 907 (1994).

Appellant, nonetheless, has imputed certain motives and intentions to several managers and argues that he has been singled out for discipline. He thereby implicates error or abuse by the employing establishment. After reviewing all the evidence, including appellant's statements and the statements of other employees, the Board finds that the record in this case fails to substantiate error or abuse by the managers in the discharge of their administrative duties. Facts are a matter of proof, not perception, and there is no probative and reliable evidence in this case that establishes error or abuse by the managers in the matters described. The employing establishment has submitted statements explaining what occurred, and though he has pursued a number of complaints through the grievance procedure, appellant has submitted no favorable finding or decision to substantiate the merits of any of his complaints. The Office has properly denied his claim accordingly.

The September 14 and August 20, 1999 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC  
March 15, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member